

State of Alaska  
Department of Commerce, Community and Economic Development  
Division of Corporations, Business and Professional Licensing

Alaska Board of Pharmacy

DRAFT MINUTES OF THE EMERGENCY MEETING

November 18, 2021 Videoconference

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By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Pharmacy via videoconference on November 18, 2021. Due to the COVID-19 pandemic, in-person attendance was not available.

**These are draft minutes and have not yet been approved by the board.**

**Agenda Item 1                      Call to Order/Roll Call                      Time: 9:01 a.m.**

The **November 18, 2021** videoconference was called to order by Chair, Dr. Ruffridge at 9:01 a.m.

Board members present, constituting a quorum:

Justin Ruffridge, PharmD #PHAP1787  
Ashley Schaber, PharmD, #PHAP1697  
Lana Bell, RPh #PHAP893 (joined at 10:02 a.m.)  
James Henderson, RPh #PHAP1683  
Tammy Lindemuth (joined at 10:02 a.m.)  
Sharon Long

Division staff present:

Laura Carrillo, Executive Administrator  
Heather Noe, Occupational Licensing Examiner  
Lisa Sherrell, PDMP Manager  
Sara Chambers, Division Director  
Michael Bowles, Investigator  
Marilyn Zimmerman, Paralegal

Members from the public present/registered:

Gretchen Glaspy, Alaska Pharmacists Association

43 Sheila Sinclair, Trilogy  
44 Daniel Nelson, Self  
45 Jessica Adams, Cardinal Health  
46 Olga Brophy, Carrs/Safeway  
47 Maimuna Bruce, Cardinal Health  
48 Lorri Walmsley, Walgreens  
49 Caren Robinson, AkPhA  
50 Jennifer Adams, ISU  
51 Samantha Chessie, N/A  
52 Ryan Burke, PTCB  
53 Lana Bell, BoP  
54 Kevin McCabe, State House District 8  
55 Sandy Taylor, Self  
56 Angela Steph, House of Representatives/Rep. McCabe  
57 Bobbie Le, Pillpack  
58 Coral Seaman  
59 Shelley Tustison, Walmart  
60 Ursula Chizhik, FLAVORx

61  
62 **Agenda Item 2**

**Review/Approve Agenda**

**Time: 9:02 a.m.**

63  
64 The board reviewed the meeting agenda. Ms. Carrillo informed the board the division  
65 report/budget update may be at 1:30 p.m. instead of 1:00 p.m. as initially scheduled. Dr. Ruffridge  
66 called for a motion.

67  
68 **On a motion duly made by Sharon Long to approve the meeting agenda, seconded by**  
69 **Ashley Schaber, and approved unanimously, it was:**

70  
71 **RESOLVED to accept the November 18, 2021 meeting agenda as written.**  
72

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
73 Justin Ruffridge	x			
74 Lana Bell				x
75 Tammy Lindemuth				x
76 James Henderson	x			
77 Ashley Schaber	x			
78 Leif Holm				x
79 Sharon Long	x			

80 The motion passed with no further discussion.  
81  
82  
83

84 **Agenda Item 3**

**Ethics Disclosures**

**Time: 9:03 a.m.**

Dr. Schaber disclosed that she is a member of AKPhA and the Past-President (incl. Board Member; By-Laws & Nominations Committee Chair) (through 2/22); Co-treasurer (through 2/22); and a member of the Legislative & Convention Committees.

**Agenda Item 4                      Review/Approve Minutes                      Time: 9:04 a.m.**

The board reviewed the draft September 23-24, 2021 meeting minutes.

**On a motion duly made by Sharon Long to approve the meeting agenda, seconded by James Henderson, and approved unanimously, it was:**

**RESOLVED to accept the September 23-24<sup>th</sup>, 2021 meeting minutes as written.**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Justin Ruffridge	x			
Lana Bell				x
Tammy Lindemuth				x
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

**TASK 1**

Ms. Carrillo will send the approved minutes to Chair Ruffridge for signature and to the publications unit for posting to the website.

**Agenda Item 5                      Investigative Report                      Time: 9:07 a.m.**

Investigator Bowles joined the meeting to present the board's investigative report, which included matters from September 10, 2021 through November 16, 2021. During this time, 22 matters closed and 23 remain open.

**Agenda Item 6                      Board Business                      Time: 9:12 a.m.**

**Disciplinary Matrix**

Ms. Carrillo presented the draft disciplinary matrix she and Dr. Schaber began working on since the board's September meeting. Ms. Long expressed appreciation for the comprehensive work. Ms. Carrillo noted there were overlaps in violation types, for example: unprofessional conduct regulations in 12 AAC 52.920 also include matters related to fraud, negligence, and unlicensed practice. Ms. Carrillo inquired how the board wished to organize and structure the matrix. The

board agreed each potential violation category could be its own subcategory with a specified action.

Dr. Schaber emphasized the need to align unprofessional conduct language with the medical board as pharmacists move to become recognized as providers. On fine amounts, Dr. Ruffridge suggested an amount per day the licensee is in potential violation of the statute or regulation.

The board discussed prohibited use of certain language and symbols, such as “Rx” and “apothecary.” The board contemplated what powers they hold to restrict, for example, grocery stores from selling health food bars, like the Rx Bar, without a pharmacy license. While the board agreed legal guidance would provide clarity, it was ultimately agreed the matter could be pursued further in the event a complaint of this nature is received.

#### Continuing Education Disciplinary Matrix

Paralegal, Marilyn Zimmerman, joined the board to discuss the continuing education disciplinary matrix that has been in existence for several years. Ms. Zimmerman recommended there be consistency in the matrix and that fine amounts align with the severity of the discipline. Ms. Zimmerman also explained that as currently written, the level of effort to research non-compliance matters, communicate with the licensee, and draft reprimand and consent documentation, often exceeds the outcome discipline when it results in \$2,500 suspended and a fine of \$25.00. The board agreed and discussed potential amendments to this matrix.

Dr. Ruffridge believes that continuing education is an incredibly important aspect of being licensed to perform patient care at a high level; the requirement to obtain these hours is not unreasonable or a difficult task. Dr. Ruffridge further suggested setting a base fine amount, stating it may be a motivating factor for licensees to complete their hours because there will be the same fine regardless of whether they missed 2 hours or 9 hours. Mr. Henderson agreed, adding there should be an additional fine amount for each hour per unit missed. Dr. Schaber also agreed, emphasizing the importance of distinguishing fine amounts between pharmacists and pharmacy technicians. Dr. Ruffridge suggested a base fine of \$500 for pharmacists, plus \$100 - \$200 per credit hour missed. Ms. Lindemuth and Ms. Long suggested lower, but proportionate, amounts for pharmacy technicians.

**On a motion duly made by Ashley Schaber to implement a continuing education base fine for pharmacists at \$500, \$100 for each credit hour missed, two mandatory audits, a consent agreement and reprimand, and for a pharmacy technician, a \$125 base fine, \$25 for each credit hour missed, two mandatory audits, a consent agreement and reprimand, seconded by James Henderson, and approved unanimously, it was:**

**RESOLVED to amend the continuing education disciplinary matrix by implementing base fines, per credit hour fines, mandatory audits, consent agreements, and reprimands for pharmacists and pharmacy technicians who fail to meet continuing education requirements.**

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion, however, Dr. Ruffridge suggested sending a notice through the ListService regarding this change.

## **TASK 2**

Ms. Carrillo and Dr. Schaber will continue to work on the board's draft disciplinary matrix and will provide an update during its February 17-18, 2022 meeting.

## **TASK 3**

Ms. Carrillo will send a notice through the ListServ with the board's update to its continuing education disciplinary matrix.

### Application Review

The board had several tabled applications to discuss, including for regular licenses and emergency permits, and one request to approve an alternative continuing education schedule.

**On a motion duly made by Justin Ruffridge to table the pharmacist application for Zachary Brown, #147445, seconded by Tammy Lindemuth, and approved unanimously, it was:**

**RESOLVED** to table the pharmacist application for Zachary Brown.

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

## **TASK 4**

Ms. Carrillo will update Mr. Brown to inform him of his tabled application.

On a motion duly made by Justin Ruffridge in accordance with AS 44.62.310(c)(2), and seconded by James Henderson, the board unanimously moved to enter executive session for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.

**RESOLVED** to enter into executive session in accordance with AS 44.62.310(c)(2). Staff, Michael Bowles and Laura Carrillo were authorized to remain in the room.

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

*Off record at 10:30 a.m.*

*On record at 10:50 a.m.*

Upon return from executive session, Chair Ruffridge clarified that no motions were made during executive session.

**On a motion duly made by Ashley Schaber to deny the emergency pharmacist permit application for Katherine Ro #186368 per 12 AAC 52.110 as it is not possible to determine the emergency, seconded by Tammy Lindemuth, and denied unanimously, it was:**

**RESOLVED** to deny the emergency pharmacist permit for Katherine Ro per 12 AAC 52.110.

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with further discussion. Dr. Ruffridge added that while there may not be an emergency, it is encouraged the applicant apply for the regular pharmacist license.

On a motion duly made by Ashley Schaber to deny the emergency pharmacy technician permit application for Elaine Lam #186146 per 12 AAC 52.110 as it is not possible to determine the emergency, seconded by Tammy Lindemuth, and denied unanimously, it was:

**RESOLVED** to deny the emergency pharmacy technician permit for Elaine Lam per 12 AAC 52.110.

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth				x
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long				x

The motion passed with no further discussion.

On a motion duly made by Ashley Schaber to deny the emergency pharmacy technician permit application for Elizabeth Bonilla #186142 per 12 AAC 52.110 as it is not possible to determine the emergency, seconded by Tammy Lindemuth, and denied unanimously, it was:

**RESOLVED** to deny the emergency pharmacy technician permit for Elizabeth Bonilla per 12 AAC 52.110.

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

On a motion duly made by Ashley Schaber to deny the emergency pharmacy technician permit application for Madiha Ghaznavi #186193 per 12 AAC 52.110 as it is not possible to determine the emergency, seconded by Tammy Lindemuth, and denied unanimously, it was:

**RESOLVED to deny the emergency pharmacy technician permit for Madiha Ghaznavi per 12 AAC 52.110.**

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

**On a motion duly made by Ashley Schaber to deny the emergency pharmacy technician permit application for Marlene Rivas #186152 per 12 AAC 52.110 as it is not possible to determine the emergency, seconded by Tammy Lindemuth, and denied unanimously, it was:**

**RESOLVED to deny the emergency pharmacy technician permit for Marlene Rivas per 12 AAC 52.110.**

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

**On a motion duly made by Ashley Schaber to deny the emergency pharmacy technician permit application for Senti Seminjuntak #186314 per 12 AAC 52.110 as it is not possible to determine the emergency, seconded by Tammy Lindemuth, and denied unanimously, it was:**

**RESOLVED to deny the emergency pharmacy technician permit for Senti Seminjuntak per 12 AAC 52.110.**

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			



Lana Bell	x	
Tammy Lindemuth	x	
James Henderson	x	
Ashley Schaber	x	
Leif Holm		x
Sharon Long	x	

The motion passed with no further discussion.

#### **TASK 5**

Ms. Carrillo will send a copy of the emergency permit denial motions to Investigator Bowles.

**On a motion duly made by James Henderson to approve the request for approval of an alternative continuing education schedule under 12 AAC 52.330 for licensee #154661, seconded by Sharon Long, and approved unanimously, it was:**

**RESOLVED to approve the alternative schedule for continuing education for #154661.**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

#### **TASK 6**

Ms. Carrillo will process the application for #154661 per approval of request for an alternative continuing education schedule.

#### Renewal Review/Approval Process for “Yes” Responses

Ms. Carrillo addressed this document relating to supervisory review and investigative referral of potential non-compliance matters. Ms. Carrillo explained the board had previously approved an earlier iteration during its August meeting, but that the policy on which it was based had recently been updated such that the language now applies to facilities in addition to individuals. The previous referral procedure required as a result of licensees providing an affirmative response to any of the professional fitness questions applied clearly to individuals, but not to pharmacies and facilities, e.g.: outsourcing facilities and third-party logistics providers.

On a motion duly made by Tammy Lindemuth to approve the updated iteration to the *Renewal Review/Approval Process for Professional Fitness Responses*, seconded by James Henderson, and approved unanimously, it was:

**RESOLVED** to approve the *Renewal Review/Approval Process for Professional Fitness Responses* as amended.

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

#### **TASK 7**

Ms. Carrillo will file the final version of the *Renewal Review/Approval Process for Professional Fitness Responses* for reference during the renewal cycle.

#### Review of Lost/Stolen Rx

The board reviewed DEA 106 forms for CARRS Pharmacy, Mat-Su Medical Center, and Safeway Pharmacy #1820.

#### Legislation Lead

With legislative session imminent, Ms. Carrillo asked the board to identify a legislative lead for pharmacy-related matters the board may have to testify on. Dr. Ruffridge was the board's previous lead and expressed interest in continuing. Dr. Schaber volunteered as a back-up contact.

On a motion duly made by Lana Bell to designate Justin Ruffridge as lead legislative contact for the board and Ashley Schaber as its secondary contact, it was:

**RESOLVED** to appoint Justin Ruffridge and Ashley Schaber as the board's legislative leads.

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			

James Henderson	x
Ashley Schaber	x
Leif Holm	x
Sharon Long	x

The motion passed with no further discussion.

## TASK 8

Ms. Carrillo will forward to the department's legislative liaison contact information for Dr. Ruffridge and Dr. Schaber as leads for the upcoming session.

## Agenda Item 7

## Public Comment #1

Time: 11:15 a.m.

### Representative Kevin McCabe:

Rep. McCabe thanked the board for their hard work and reaction to the last discussion [during the September 23-24, 2021 meeting], adding they are important to the healthcare system and appreciate recognizing the physician-patient relationship.

### Daniel Nelson:

Daniel Nelson expressed concern about patients being forced to use out-of-state pharmacies by PBMs or forced to pay for these prescriptions, which tend to be much more expensive. Mr. Nelson expressed further concern about patients receiving prescriptions that are supposed to be frozen but arrive thawed or don't show up on time; prescriptions for which there has been no patient counseling offered or given; resident pharmacists or pharmacies not having any relationship with the out-of-state pharmacist or pharmacy; and cumbersome prior authorization processes. Mr. Nelson echoed Rep. McCabe's sentiments around his appreciation for the board's letter, but stated the joint letter with the Board of Nursing and Board of Dental Examiners would have more added weight with the participation of the Medical Board. Of concern with the joint letter is the incorrect statement around FDA approval for monoclonal antibodies as it is only emergency authorized, which he recognizes may be a small but important distinction. Lastly, Mr. Nelson expressed disappointment in timeliness of responses from the board of pharmacy staff, stating a 5-day return time is not acceptable.

### Coral Seaman:

Ms. Seaman inquired whether there was a policy around keeping cards on file or whether there were encryption or other security requirements.

Chair Ruffridge called for break.

*Off record at 11:30 a.m.*

*On record at 11:42 a.m.*

Letter to the board re: ivermectin

The board first reviewed a confidential letter from an individual regarding concerns about pharmacists refusing to fill certain medications as prescribed by their doctor. Dr. Ruffridge stated that ivermectin has become a moderately political issue and contemplated a response to the letter, and for which Ms. Lindemuth strongly advised there to be one. Dr. Ruffridge addressed the construction of obstacles as a result of refusals to fill, adding it may be an opportunity to explain, as attempted in the board's recent joint letter, that pharmacists have an obligation to review prescriptions and not fill them if the strength or supply day is deemed unsafe. Dr. Ruffridge recalled from previous public comments there was a hope the board of pharmacy would mandate that all pharmacists dispense every prescription a doctor orders, which is not a reasonable move; however, if there were a response from the board, it should be one to educate the individual on the pharmacy's ability to deny prescriptions.

Ms. Lindemuth reiterated her opinion that this is an important issue and where there is a misunderstanding, it is appropriate individuals be given clarity. Ms. Long added that doctors and patients have a relationship that must be respected and that there has been concern from patients that when pharmacists deny prescriptions, they are effectively practicing medicine without a license. Ms. Long reiterated the importance for pharmacists to make the effort to call prescribers before refusing to fill prescriptions. Dr. Ruffridge agrees there is a degree of trust for patients and prescribers, but still in many cases and even at the highest level of the courts, pharmacists have a legal corresponding responsibility.

Ultimately, the board wished to respond to the individual's concern.

DEA Notice of Proposed Rule Making: Telepharmacy

The DEA proposes regulations for controlled substances prescribed electronically and dispensed by a telepharmacy system. The proposed rulemaking is to consider creating a special or modified telepharmacy registration. Comments to the proposed rule making are due January 18, 2022.

NABP - .Pharmacy Initiative for Online Pharmacies

The NABP's .Pharmacy verified program verifies safe online pharmacies. At present, 33 state boards and colleges of pharmacy are participating in this program. Alaska has not yet participated.

Arkansas Correspondence Re: Monoclonal Antibodies

The Arkansas Board of Pharmacy is collaborating with their Dept. of Health and State Pharmacists Association on monoclonal antibodies, which are considered passive immunization treatments that fall under the ability for pharmacists to order. Dr. Ruffridge inquired about the legal request on pharmacists' ability to independently order and administer therapeutics. Ms. Carrillo stated guidance was provided that the PREP Act preempts any state limitations on providing treatments. Dr. Ruffridge requested clarification specifically on monoclonal antibodies.

**TASK 9**

Ms. Carrillo will draft a response to the individual who wrote with concerns that pharmacists are refusing medications to help treat COVID-19. Ms. Carrillo will then send it to the board for their review/approval.

**TASK 10**

Ms. Carrillo will follow-up with DOL on whether pharmacists can independently order and administer monoclonal antibodies under the PREP Act.

Chair Ruffridge called for lunch at 12:02 p.m.

*Off record at 12:02 p.m.*

*On record at 12:40 p.m.*

**Agenda Item #10**

**Subcommittee Updates**

**Time: 12:40 p.m.**

Controlled Substances Advisory Subcommittee

Ms. Lindemuth provided an update on the CSAC; the committee is continuing to discuss gabapentin, marijuana, mitragynine, and kratom. With regards to marijuana, there are some discrepancies in the definition of ‘cannabis’, specifically around the amounts of THC in it, which impacts law enforcement activity. The CSAC is contemplating whether to bring the attention to the Governor or to the Marijuana and Alcohol Control Board. Gabapentin is still being discussed as a schedule Va. Dr. Ruffridge inquired what the purpose of the scheduling is, to which Ms. Lindemuth clarified it is to benefit law enforcement. Scheduling the mitragynine as a IIIa would make its distribution of a felony so that law enforcement can prosecute.

**Agenda Item #11**

**Profession Updates**

**12:50 p.m.**

Alaska Pharmacists Association

Gretchen Glaspy shared that the combined position for the executive director for the AKPhA and UAA contact is still in recruitment. The annual convention is scheduled for February 11 – 13, 2022, in-person at the Anchorage Hilton. Applications for the Bowl of Hygiea Award will be accepted through 12/01/2021 and there are additional seats available to apply for.

**Agenda Item #10**

**Subcommittee Updates**

**12:55 p.m.**

Hearing nothing further for profession updates, the board of pharmacy returned to subcommittee updates.

Healthcare Board Chairs

Dr. Ruffridge stated the chairs group is continuing to meet bi-weekly. One area of discussion are the division-wide vacancies, which speaks to earlier concern during public comment around staff response time. The group continues to discuss treatment and prevention of COVID-19.

542 PDMP Board Chairs

543 Dr. Ruffridge highlighted the PDMP board chairs' current goal to move towards a unified  
544 agreement for which to prioritize investigative efforts. The uniform agreement is intended to  
545 standardize amongst the 6 affected licensing boards certain prescribing and dispensing practices  
546 that may be unsafe, including medication strength, dangerous combinations, multiple provider  
547 episodes, etc. Dr. Ruffridge stated this is a combined effort and the group continues to meet  
548 biweekly.

549  
550 **Agenda Item #13**

**Regulations**

**Time: 1:00 p.m.**

551  
552 Chair Ruffridge moved to discussing regulations. Ms. Carrillo explained that the intent to pursue  
553 document is to provide a guide on future regulatory discussions and is to serve as a prompt for the  
554 board to clarify whether it wishes to continue looking into certain regulatory areas, including: drug  
555 takeback programs, refill of controlled substances, medical examiner/coroner access, and the  
556 .pharmacy verified website program.

557  
558 New Regulations: Automated distribution kiosks

559 The board inquired whether pharmacies are currently able to install distribution kiosks. Ms.  
560 Carrillo recalled DOL indicated it is within their purview to regulate. Dr. Rich Holt, who drafted  
561 the language, was on the line and clarified that the DOL stated pharmacies cannot do this  
562 currently unless it is written into regulation. Dr. Holt emphasized the distinction between  
563 distribution kiosks and dispensing kiosks; distribution kiosks are what the board could regulate  
564 without a statute change. Dr. Holt also proposed amendments to 12 AAC 52.420 to incorporate  
565 security measures around them. Dr. Schaber stated that as the draft is written, the kiosk would be  
566 required to be physically located at a pharmacy in Alaska, suggesting this may be an appropriate  
567 route to go if out-of-state pharmacies are trying to expand their services. Mr. Henderson agreed it  
568 was a matter worth pursuing. The board ultimately agreed to continue pursuing this matter.

569  
570 New Regulations: Refill of controlled substances (12 AAC 52.270)

571 As written, 12 AAC 52.270(d)(2) includes imitating language around refills of controlled  
572 substances. Dr. Ruffridge stated this is not necessary because 75 CFR Sec. 1306.22 under the  
573 DEA already has language around refills of controlled substances. Ruffridge stated that it is  
574 redundant to the federal rule; (d)(2) is limiting the ability for patients to receive refills on federally  
575 scheduled controlled substances and suggested rewording to the language. Mr. Henderson  
576 suggested simplifying the amendment by repealing the subsection altogether.

577  
578 **On a motion duly made by James Henderson to remove section 12 AAC 52.470(d)(2) on**  
579 **refills, "the drug is not a federal or state scheduled controlled substance.", seconded by**  
580 **Tammy Lindemuth, and approved unanimously, it was:**

581  
582 **RESOLVED to strike 12 AAC 52.470(d)(2).**

583  
584

APPROVE	DENY	ABSTAIN	ABSENT
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585	Justin Ruffridge	x	
586	Lana Bell	x	
587	Tammy Lindemuth	x	
588	James Henderson	x	
589	Ashley Schaber	x	
590	Leif Holm		x
591	Sharon Long	x	

592 The motion passed with no further discussion.

#### 593 **TASK 11**

595 Ms. Carrillo will add automated distribution kiosks to the board's next agenda for February 17-18,  
596 2022.

#### 597 **TASK 12**

599 Ms. Carrillo will forward the regulation amendments striking 12 AAC 52.470(d)(2) to the division's  
600 regulations specialist.

#### 601 **Agenda Item #12**

#### 602 **Budget Report/Division Update**

603 **Time: 1:30 p.m.**

604 Director Chambers explained the timing of having 4<sup>th</sup> quarter reports available between late  
605 October – mid November when the coverage is from April to June. This is because it takes time  
606 for year-end reconciliation of systems, documents, receipts, invoices, and payables to close out  
607 during a re-appropriation period in October and be reported on before the new fiscal year begins  
608 July 1. Director Chambers pointed to the biennium trend, which shows increased revenue for the  
609 two-year life of a license since FY14. Ms. Chambers observed the difference between non-renewal  
610 year license fees received in FY21 (\$1,121,447) compared to FY19 (\$213,770), noting the \$900,000  
611 difference. Ms. Carrillo stated the renewal year was extended through the end of September, which  
612 may explain the influx in revenue. The board's total revenue for the biennium is \$1,752,552.

613  
614 Direction Chambers directed the board to investigative expenditures, which is usually where  
615 volatility lies. This is now broken down into non-investigative expenditures and investigative  
616 expenditures. Non-investigative expenditures include staff time, travel, services, commodities, and  
617 capital outlay. Investigative expenditures increased drastically between FY19 and FY21. Ms.  
618 Carrillo stated this may be due to new facility license types referred to the investigative unit for  
619 potential change violations at the time of the extended renewal.

620  
621 Dr. Ruffridge recalled from the last meeting the division's fee analysis and recommended fee  
622 changes. Looking at the board's surplus of \$368,000 and how it compares to similarly operating  
623 programs like medical and nursing, where their surplus exceeds \$1.1 million, Dr. Ruffridge  
624 commented the board's smaller surplus may not be stable over time and that it should avoid roller  
625 coaster fee changes. Director Chambers agreed and the board began discussing potential fee  
626 changes.

Dr. Ruffridge reiterated the board's interest in reducing the technician application and license fees because the cost may deter individuals from obtaining or renewing their license. Dr. Ruffridge noted that the application fee in 12 AAC 52.310(a)(1) applies to all license categories, including technicians, but suggested it could be reduced to zero to encourage more applicants to enter that career path. Dr. Schaber agreed, acknowledging cost is a barrier for technicians. Director Chambers acknowledged the board's intent to only reduce to zero the fee in (a)(1) for technicians and clarified she will ultimately approve the amendment since it is in centralized regulations. Mr. Henderson then suggested reducing fees for pharmacists and drug rooms. Ms. Long agreed with fee reductions.

New Pharmacist License	200	117	23,400	(\$100)	100
Renew Pharmacist License	200	1,059	211,800	(\$100)	100
New Wholesale Drug Distributor License	500	1	500		500
Renew Wholesale Drug Distributor License	500	15	7,500		500
New Pharmacy License	200	19	3,800		200
Renew Pharmacy License	200	132	26,400		200
New Drug Room License	200	10	2,000	(\$50)	150
Renew Drug Room License	200	41	8,200	(\$50)	150
Out of state Pharmacy	600	281	168,600		600
Renew Out of state Pharmacy	600	640	384,000		600
New Pharmacy Technician License	50	488	24,400	(\$25)	25
Renew Pharmacy Technician License	50	1,309	65,450	(\$25)	25

On a motion duly made by James Henderson to reduce the \$200 initial pharmacist licensee fee by \$100 to be \$100, the \$200 pharmacist renewal fee by \$100 to be \$100, the \$200 initial drug room license fee by \$50 to be \$150, the \$200 renewal drug room license fee by \$50 to be \$150, the \$100 initial pharmacy technician application fee to \$0, the \$50 initial pharmacy technician license fee by \$25 to be \$25, and the \$50 pharmacy technician renewal fee by \$25 to be \$25, seconded by Sharon Long, and approved unanimously, it was:

**RESOLVED** to accept the fee reductions for pharmacists, drug rooms, and pharmacy technicians.

	APPROVE	DENY	ABSTAIN	ABSENT
Leif Holm				x
Ashley Schaber	x			
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth				x
James Henderson	x			
Sharon Long				x

The motion passed with no further discussion.

### TASK 13



Ms. Carrillo will forward the board's motion and minutes excerpt on fee reductions to the regulations specialist.

Chair Ruffridge called for break at 2:40 p.m.

*Off record at 2:40 p.m.*

*On record at 2:52 p.m.*

### **Agenda Item #13**

### **Regulations**

**Time: 1:00 p.m.**

#### **New Regulations: Drug takeback programs (uncodified)**

Ms. Carrillo stated DOL clarified the board could pursue drug takeback programs in regulation and develop a requirement for pharmacies to notify the board when they become a receptacle site. Dr. Ruffridge stated the process to obtain a receptacle registration under the DEA is already a cumbersome and onerous process. Since it is already highly regulated by the DEA, Dr. Ruffridge suggested there may not be a need to regulate this at the state level. Mr. Henderson agreed.

### **TASK 14**

Ms. Carrillo will remove drug takeback programs as a future agenda item.

#### **New Regulations: Medical examiner/coroner access to PDMP (uncodified)**

Ms. Carrillo stated the proposed language as included in the board packet was suggested by DOL after a recent inquiry around whether medicolegal investigators can have access to the data on behalf of a medical examiner/coroner (ME/C). Guidance was previously provided in 2018 that delegates of ME/Cs could have access; however, it was more recently determined that medicolegal investigators specifically cannot have access because their scope is to determine jurisdiction, whereas ME/C access is permitted only to determine the manner and cause of death. Dr. Ruffridge agreed the proposed language was straight forward and that this could be pursued.

#### **New Regulations: NAPBP's .Pharmacy and VIPPS programs**

Ms. Carrillo clarified the .Pharmacy and VIPPS program would fall under statute changes since online pharmacies are located outside of the state; to *license* out-of-state pharmacies requires a statute change to update the registration category. Dr. Ruffridge expressed support for pursuing this change statutorily, stating it is the wave of the future. Mr. Henderson also agreed this is an area the board needs to regulate.

Ms. Carrillo suggested gathering information on the number of pharmacies currently offering online services so that the board has some data to pull from when seeking legislation in the future. Dr. Ruffridge also recommended having a representative from the NABP attend a board meeting to present on their .Pharmacy and VIPPS programs.

### **TASK 15**

Ms. Carrillo will track the number of pharmacies providing internet services at the time of the next renewal.

#### **TASK 16**

Ms. Carrillo will reach out to the NABP to invite a representative to discuss the .Pharmacy and VIPPS program with the board during its February 17-18, 2022 meeting.

#### PDMP Regulations: (adopt 12 AAC 52.855 - .857 amendments)

The board reviewed the proposed changes to 12 AAC 52.855, 12 AAC 52.856, and 12 AAC 52.857 as publicly noticed and included in the board packet.

**On a motion duly made by James Henderson to adopt the changes to 12 AAC 52.855 – 12 AAC 52.857 as publicly noticed, seconded by Tammy Lindemuth, and approved unanimously, it was:**

**RESOLVED to adopt 12 AAC 52.855 – 12 AAC 52.857.**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

#### **TASK 17**

Ms. Carrillo will sign the certification order and affidavit of board action for adopted changes to 12 AAC 52.855 – 12 AAC 52.857.

#### Part III PDMP Regulations: Third-party vendors

Ms. Carrillo summarized the proposed amended to 12 AAC 52.865 (reporting and reviewing PDMP information) which includes verbiage on PIC reporting to the PDMP on behalf of the employing pharmacy. The proposal introduces the term, “third-party vendor” as an authorized reporter for both pharmacies and prescribers. It also outlines the requirements for when zero reports must be submitted.

#### Part III PDMP Regulations: Veterinary reporting

Ms. Carrillo explained the additional section on reporting of veterinary prescription data using current ASAP format aligns with the board of veterinary examiner’s recent discussions on

reporting. Ms. Sherrell shared with the board that she was recently with a veterinary TTAC group and it seems most states already have the standards built into their reporting systems versus looking at multiple screens for the information. Dr. Ruffridge explained pharmacy software systems are different; some are more stringent where you have one screen with owner information and a separate screen with the animal information; and others where you could simply add the first name of the animal, last name, and date of birth of the owner on one screen. Dr. Ruffridge stated it would be of interest to know how many systems differ. Ms. Carrillo commented that at the time mandatory registration was rolling out, there may not have been messaging to clearly articulate to pharmacies the reporting standards that must be included so that the fields required for review correlate to the data that's reported.

#### Part III PDMP Regulations: 42 CFR Part 2

Ms. Carrillo summarized the proposed changes to 12 AAC 52.865 relating to required reporting of substance use disorder (SUD) treatment to the PDMP, explaining DOL advised that the board is required to adopt regulations. Ms. Carrillo explained that while the data must be reported, prescribers must first obtain the patient's consent. Data reported to the PDMP effectively makes the database a lawful holder of data, which places additional requirements to comply with federal law.

#### Part III PDMP Regulations: Audit of PDMP compliance

Ms. Carrillo explained that this section introduces new audit authority for the board to periodically review, at the time of license renewal, compliance with registration and reporting requirements.

**On a motion duly made by Ashley Schaber to approve the proposed amendments to 12 AAC 52.860, 12 AAC 52.865, and new audit regulations in 12 AAC 02, seconded by Tammy Lindemuth, and approved unanimously, it was:**

**RESOLVED to approve proposed amendments to reporting of PDMP information and compliance auditing.**

	APPROVE	DENY	ABSTAIN	ABSENT
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

#### **TASK 18**

Ms. Carrillo will submit part III PDMP regulations to the regulation specialist for DOL review and public comment.

#### Military Regulations

Ms. Carrillo stated the military and emergency permit language was sent to the publications specialist for DOL review in late September, but there is no recent update to provide.

#### Other

Dr. Ruffridge stated the board of Board of Nursing regulation, 12 AAC 44.440, regarding removing the requirement to provide APRN credentials on a prescription order was ready for adoption as of 11/03/2021. Dr. Ruffridge also stated the Medical Board's update to 12 AAC 40.983 dealing with cooperative practice agreements took effect on 11/18/2021.

#### **TASK 19**

Ms. Carrillo will create a joint cooperative practice form for use by physicians and pharmacists and will create a checklist and process to endorse cooperative practice applications after approval by the State Medical Board.

#### **TASK 20**

Ms. Carrillo will share the draft documents with the Medical Board's EA, Natalie Norberg, to finalize the cooperative practice application, checklist, and policy/procedure. Ms. Carrillo will then provide an update to the board on this at its February 17-18, 2022 meeting.

#### **Agenda Item #13**

#### Statutes

**Time: 2:48 p.m.**

#### White/brown bagging

The board discussed white/brown bagging and reviewed the draft written by the AKPhA's legislative group. Dr. Ruffridge expressed this being an area where the board should support the association's efforts on, as other states are doing. Dr. Schaber reiterated the issues these practices are creating with out-of-state pharmacies, particularly in the infusion setting where insurance companies are requiring expensive specialty medications to be filled and sent to non-resident pharmacies and then compounded by that pharmacy and dispensed to that patient—a white bagging practice. Some insurance companies are requiring medication to be shipped directly to the patient and then administered at the infusion pharmacy, which is brown-bagging. Dr. Schaber explained that medications being filled at specialty pharmacies outside of the state are not always in the best interest of the patient.

Dr. Schaber asked for a follow-up on the board's legal opinion request on white/brown bagging. Dr. Ruffridge recalled it had to do with whether regulating the practice fell within the board's purview or whether it was entirely a Division of Insurance matter. Ms. Carrillo stated the request was submitted after the September meeting but that she will request a follow-up.

**TASK 21**

Ms. Carrillo will follow up on the DOL request regarding white/brown bagging.

Technicians with national certification

Dr. Ruffridge stated it would be ideal for the AKPhA to add technician national certification to their expansion bill, HB 145, adding it should be recognized that as pharmacists take on more and more, as do technicians. Dr. Schaber agreed and stated recognizing this as a separate license category would align with what other states are doing. Mr. Henderson supports this.

**On a motion duly made by Justin Ruffridge to support legislative pursuits of adding pharmacy technicians with national certification as a separate license category in order to regulate, support, and promote technicians obtaining additional education to become certified, seconded by Sharon Long, and approved unanimously, it was:**

**RESOLVED to support legislative efforts to create a separate license category for pharmacy technicians with national certification.**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Justin Ruffridge	x			
Lana Bell	x			
Tammy Lindemuth	x			
James Henderson	x			
Ashley Schaber	x			
Leif Holm				x
Sharon Long	x			

The motion passed with no further discussion.

**Agenda Item #15**

**Public Comment #2**

**Time: 2:48 p.m.**

Sandy Taylor:

Ms. Taylor asked for clarification on how CMS affects mail order prescriptions, stating under her plan, she's not able to take her prescription to a local pharmacy. Dr. Ruffridge responded, stating it ties to the issue of white bagging, a patient choice issue that mandates patients receive their medications out-of-state, but that since CMS is not within the jurisdiction of states to regulate, it is hard to answer.

Coral Seaman:

Ms. Seaman stated it is important pharmacies are diligent about performing drug interaction screenings and understanding pharmacogenetics, how different genes affect's the body's response to certain medications. Ms. Seaman also expressed concern about positive ID requirements at the time of patient prescription pickup and about mail order drugs arriving in the mail inconsistent with temperature requirements.

**Agenda Item #13**

**Regulations**

**Time: 4:15 p.m.**

**New Regulations: Pharmacists-in-charge**

Dr. Ruffridge returned to regulations to discuss pharmacist-in-charge requirements and limitations, including the length of time a PIC must be physically present, whether a pharmacy can be in charge of two or more pharmacies at the same time, mandatory breaks, tech-to-pharmacist ratios, and script count per day per pharmacists.

Dr. Schaber expressed support with pursuing regulations around workforce wellness and well-being, adding it has become a huge topic of discussion especially during the pandemic. Dr. Schaber shared that the American Pharmacist Association sent out a survey within the last year through state affiliates regarding workplace conditions and that it would be helpful to reach out to the AKPhA for those results to be shared with the board.

Ms. Carrillo asked why mealtimes weren't being provided as part of the pharmacy's policies already. Dr. Ruffridge stated they are not always provided, and state law does not require employers to provide mealtime breaks. Dr. Ruffridge added it can become a patient safety issue if pharmacists are working 10-12 hours with no food or mental break. Dr. Schaber inquired whether other prescribing boards have mandatory mealtimes in their regulations. Ms. Carrillo briefly reviewed regulations for medical and nursing, but didn't find mealtime language, adding it's not a licensing function. Dr. Ruffridge stated that if it is regulated, it creates an opportunity for pharmacists to file a complaint.

**TASK 22**

Ms. Carrillo will add PIC requirements and limitations to the next meeting agenda for February 17-28, 2022.

**TASK 23**

Ms. Carrillo will reach out to the AKPhA for results on the workforce conditions survey and will share it with the board during their February 17-18, 2022, meeting.

**Agenda Item 13**

**Administrative Business**

**Time: 4:51 p.m.**

**Task List Review**

The board reviewed the task list from its September 23-24 meeting, which also included ongoing tasks from previous meetings. Dr. Ruffridge noted, during this November meeting, that several tasks on the list were completed.

**Meetings**

Dr. Ruffridge asked the board how they liked the one-day meeting. Dr. Schaber supported it and stated it was efficient. Dr. Ruffridge felt a little rushed but suggested that for meetings held in-person it would be ideal to meet for two days and for meetings held via Zoom to be one day.

921 ListServ Notices

922 Ms. Carrillo stated it might be helpful to start providing recaps of notices sent through the board's  
923 list serv. Ms. Carrillo shared the only item sent out was regarding the joint statement between the  
924 nursing and dental boards for treatment of COVID-19. The board agreed it would be helpful to  
925 continue having this as an agenda item.

926

927 **TASK 24**

928 Ms. Carrillo will submit a travel and meeting request for all board members to attend the February  
929 17-18, 2022 in-person meeting in Juneau.

930

931 **Agenda Item 17**

**Adjourn**

**Time: 4:55 p.m.**

932

933 Dr. Ruffridge adjourned the meeting at 4:55 p.m.

934

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936

937 Laura Carrillo

02/28/2022

938 Laura Carrillo, Executive Administrator

Date

939

940

941

942 Justin Ruffridge

Justin Ruffridge

02/28/2022

943 Justin Ruffridge, Chair

Date